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Attorney for Plaintiff, DARLENE HOYT

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DARLENE HOYT,

Plaintiff,

v.

CAREER SYSTEMS DEVELOPMENT
CORPORATION,

Defendant.

Case No. 07 CV 1733 BEN (RBB)

**PLAINTIFF’S *EX PARTE* APPLICATION
TO QUASH OR OTHERWISE MODIFY
DEFENDANT’S SUBPOENAS *DUCES
TECUM* ISSUED TO AETNA HEALTH OF
CALIFORNIA, EMPLOYERS
COMPENSATION INSURANCE, HUMAN
AFFAIRS INTERNATIONAL OF CA,
UNIVERSITY OF SAN DIEGO, HUMAN
BEHAVIOR ASSOCIATES, INC.,
PATRICIA SMITH AND STACEY CLARK,
PH.D., AND FURTHER PRECLUDING
DEFENDANT FROM INTRODUCING
NEWLY PROFFERED TRIAL EXHIBITS
NOT TIMELY PROVIDED TO PLAINTIFF**

Date: August 31, 2010
Time: 9:30 a.m.
Courtroom: 3
Judge: Hon. Roger T. Benitez

Plaintiff, DARLENE HOYT [“HOYT”], hereby applies to the Court *ex parte* for an order quashing or otherwise modifying the subpoenas *duces tecum* issued by defendant, CAREER SYSTEMS DEVELOPMENT CORPORATION [“CSDC”] to Aetna Health of California, Employers Compensation Insurance, Human Affairs International of CA, University of San Diego, Human Behavior Associates, Inc., Patricia Smith and Stacey Clark, Ph.D. [Exhibits “D” through “J” to the accompanying declaration of H. Paul Kondrick], and further precluding

1 defendant's introducing newly proffered trial exhibits not timely provided to plaintiff, in
2 particular through the Pretrial Conference procedures in this action.

3 The grounds or bases for the relief are that:

- 4 1. Three (3) business days before trial, defendant, CSDC, presents more than a 1,000
5 pages of previously undisclosed trial exhibits to plaintiff's counsel;
- 6 2. Defendant, CSDC, and its counsel collected and copied documents in advance of
7 the trial date herein purportedly under the guise of trial subpoenas *duces tecum*,
8 without providing plaintiff any notice whatsoever, including the photocopying of
9 plaintiff, Dr. HOYT's, federal and state income tax returns;
- 10 3. Plaintiff, Dr. HOYT, has a statutory privilege under California law in her income
11 tax returns;
- 12 4. Defendant, CSDC, seeks documents which are tantamount to conduct additional
13 discovery approximately 2-years after the discovery cut-off date in this matter;
- 14 5. Defendant's actions fly in the face of this Court's rules, in particular, *CivLR*
15 *16.1(f)(4), subsection (b)*, requiring that at least ten (10) days in advance of the
16 October 2009 Pretrial Conference in this matter, the attorneys for the parties were
17 mandated to meet and confer suitable time and place to exchange all exhibits,
18 other than those to be used for impeachment, which defendant, CSDC, and its
19 counsel now admittedly failed to do; and

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6. *CivLR 16.1(f)(4)*, provides in relevant part that:

“b. Exchanges Between Counsel. At the meeting, all exhibits other than those to be used for impeachment shall be displayed or exchanged.

d. Failure to Display and/or Exchange Exhibits. **Failure to display and/or exchange exhibits to or with opposing counsel will permit the court to decline admission of same into evidence.”**

This *ex parte* application is based on this Notice, the accompanying memorandum of points and authorities and Declaration of H. Paul Kondrick, including Exhibits “A” through “J,” attached thereto.

H. Paul Kondrick,
A Professional Corporation:

Dated: August 27, 2010

By: /s/ H. Paul Kondrick
H. Paul Kondrick
Attorney for Plaintiff,
DARLENE HOYT